United Nations S/AC.44/2004/(02)/41/Add.1

Security Council

Distr.: General
9 November 2005

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Letter dated 8 November 2005 from the Permanent Representative of Sweden to the United Nations addressed to the Chairman of the Committee

On behalf of the Swedish Government and in response to your kind letter of 8 September 2005, please find enclosed additional information on legislation and law enforcement in response to the examination made by the Security Council Committee established pursuant to resolution 1540 (2004) (see annex).*

I would be most grateful if this information could be included in the Committee report to the Security Council.

(*Signed*) Anders **Lidén**
Ambassador
Permanent Mission of Sweden to the United Nations

* The text of laws and regulations is on file with the Secretariat and is available for consultation.

05-60507 (E) 211105

Annex to the letter dated 8 November 2005 from the Permanent Representative of Sweden to the United Nations addressed to the Chairman of the Committee

Report on the implementation of Security Council resolution 1540 (2004)

Additional information on legislation and law enforcement in response to the examination made by the Security Council Committee established pursuant to resolution 1540 (2004)

8 November 2005

SWEDEN

The Swedish Government has analyzed the matrix (for Sweden) provided by the Security Council Committee established pursuant to Resolution 1540 (2004). Further to the national report submitted by Sweden on 28 October 2004, and based on the said matrix, the following remarks can be made:

Sweden does not possess any weapons of mass destruction. Sweden is a party to the all treaties covered by resolution 1540 and participates actively in the export control regimes under consideration.

The attempt by non-State actors to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, is prohibited under Swedish law. Swedish national legislation prohibits any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them.

Swedish national legislation takes the form of either framework legislation or special statutes. A more detailed account will be given below.

Attachments:

1. Act on Criminal Responsibility for Terrorist Offences (SFS 2003:148).

2. Act on Criminal Responsibility for the Financing of Particularly Serious Crime in some cases, etc (SFS 2002:444).

Swedish national legislation which prohibits persons or entities to engage in activities targeted by Security Council resolution 1540

OP 2: BW, CW, NW

As a Member State of the European Union, Sweden is bound by Community rules and regulations. As stated in the national report under Security Council resolution 1540 submitted by

Sweden on 28 October 2004, the EU Framework Decision on Terrorism of 13 June 2002 provides that "manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons" must be deemed as terrorist offences when committed with a terrorist intent as provided in the Framework Decision. Article 4 of the Framework Decision also covers, in principle, inciting, aiding or abetting and attempting these behaviours. Sweden has implemented the EU Framework Decision by the Act on Criminal Responsibility for Terrorist Offences (SFS 2003:148) complemented by general provisions in the Swedish Penal Code.

Sweden has implemented the UN International Convention for the Suppression of the Financing of Terrorism by the Act on Criminal Responsibility for the Financing of Particularly Serious Crime in some cases, etc. (SFS 2002:444).

The obligations under the NPT, CWC, BTWC and CTBT are fully implemented in Swedish law.

The conduct mentioned in Operative Paragraph 2, if committed with a terrorist intent, is criminalised through the previously mentioned act on Criminal Responsibility for Terrorist Offences as terrorist offence. If such an intent cannot be established the conduct falls under a number of provisions in the Swedish Penal Code, i.a. murder, sabotage, devastation, endangering the public, spreading poison or a contagious substance and unlawful handling of chemical weapons. Inciting, aiding and abetting as an accomplice is criminalized for all the mentioned crimes. Furthermore, for the majority of them, conspiracy, preparation and attempt are criminalized.

The criminalization also covers the financing of these crimes through the Act on Criminal Responsibility for the Financing of Particularly Serious Crime in some cases, etc.

For the mentioned crimes in the Penal Code and for terrorist crimes according to the Act on Criminal Responsibility for Terrorist Crimes, Swedish courts have universal jurisdiction.

In order to implement the commitments under the CTBT the Swedish Parliament has decided the special provision "carrying out an unlawful nuclear explosion". This special provision will enter into force pending the entry into force of the CTBT.

The handling of substances that might be used for a nuclear, chemical or biological weapon requires a license from the Government. The handling of such substances without a license is criminalized.

Biological, chemical and nuclear weapons are covered by the Military Equipment Act (SFS 1992:1300) and the Military Equipment Ordinance (SFS 1992:1303) as military equipment. This legislation prohibits the manufacture, supply and export of military equipment without a license. Supply means sale, transfer, offer for sale, loan, gift or intermediation. The legislation also covers production, acquisition, possession, stockpiling, development, transport, exercise of control, use, and assistance.

The Act on Transport of Dangerous Goods (SFS 1982:821) regulates i.a. transhipment through Swedish territory and domestic transfers of certain human pathogens, animal/zoonotic pathogens, plant pathogens, dual-use equipment. The Act also covers domestic transfers of toxins and includes packing requirements for transfer of these biological agents and toxins as well as bio safety requirements for transfer. Infringements are criminalised.

The Swedish Act on Nuclear Activities (SFS 1984:3) stipulates that a license is required for nuclear activities such as the production, use, transport and storage of nuclear material. National supervision according to this law is made by the Swedish Nuclear Power Inspectorate (SKI). Research related to nuclear activities has to be reported to SKI. Production of nuclear related equipment has to be reported to the SKI as well as import and export.

Detailed procedures are laid out in the Ordinance of Nuclear Activities (SFS 1984:14) and in Regulations issued by The Swedish Nuclear Power Inspectorate (SKIFS 2002:2 on disposal of nuclear waste, SKIFS 2004:1 on safety, SKIFS 2005:1 on physical protection). A regulation covering nuclear materials control is planned to be issued in 2006.

To perform nuclear activities without license, fail to report or else breach the Law, Ordinance or Regulations is criminalised.

European and international supervision of nuclear material is made by the EU-Commission and the IAEA (Euratom Treaty, INFCIRC/193).

Sweden has therefore enforced effective measures to account for and secure the production, use and storage of nuclear material and the production of nuclear technology.

Export of nuclear material and nuclear equipment is regulated in the Commission Regulation (EC) No. 1334/2000. This is complemented by the Swedish Act on the Control of Dual-use items and Technical Assistance (SFS 2000:1064) and respective Ordinance (SFS 2000:1217).

Account for/Secure/Physically protect and Control BW, CW, NW including Related Materials

OP 3: BW, CW, NW

The national authority for control of handling of/work with biological agents is the Swedish Work Environment Authority (SWEA). AFS 2005:1 (based on Directive 2000/54/EC) contains provisions for protection of workers from risks related to exposure to biological agents at work, including work environment aspects of human pathogens; bio safety standards; and physical security of rooms for handling of/storage of/work with biological agents.

Work with biological agents including human pathogens that could be used as biological weapons must be notified to or permitted by SWEA, which is the supervisory authority.

According to SFS 2000:271 notification is needed for all enterprises with contained use of genetically modified micro organisms (GMMs) and other GMOs. SWEA is the competent authority for handling notifications, permits and inspections for contained use of genetically modified micro organisms (GMMs). AFS 2000:5 regulates classification of genetically modified biological agents and provides bio safety standards for genetic engineering activities/work.

According to the National Inspectorate of Strategic Products Regulations on the control of chemical precursors (TFS 2000:26) an import license is required for the import of chemicals precursors (besides the export license requirement for the export of said precursors according to Council Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology). Companies producing, using, importing or exporting chemical precursors furthermore have to submit a declaration about their production, use, import and export, acquisition, disposal of said precursors to ISP.

According to the Act on Nuclear Activities, nuclear installations such as power and research reactors, facilities for production, the use and storage of nuclear material, and acquisition and transfer of nuclear material in Sweden or abroad by a Swedish entity require license. Basic reliability check according to the Regulation (SKIFS 2005:1) issued by the Swedish Nuclear Power Inspectorate (SKI) will enter into force on 1 January 2007. Presently a voluntary check is done by the nuclear facilities.

BW, CW and NW as such are controlled by the Military Equipment Act (SFS 1992:1300) and the Military Equipment Ordinance (SFS 1992:1303) as military equipment (see OP 2). This control includes brokering activities. The export licenses are always individual licenses.

Related materials are controlled by Council Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology concerning the export. This regulation is the export control legislation in force. It has been amended by Council Regulation (EC) No 1504/2004, containing an updated list of controlled items. These regulations are supplemented by the Act on the Control of Dual-use Items and Technical Assistance (SFS 2000:1064) and Ordinance on the Control of Dual-use Items and Technical Assistance (SFS 2000:1217).

For dual-use items there is one Community general export authorization and national export authorizations: general, global and individual licenses. Within the Community there is free circulation of goods with the exception of items contained in Annex IV to the regulation. In case of individual and global licenses end-user certificates are mandatory. In these certificates the end-user has to certify not to re-export the item.

The National licensing agencies are the National Inspectorate of Strategic Products and Nuclear-Power Inspectorate (for nuclear materials, facilities and equipment). If an item is located in an EU

Member State other than the Member State where the application is submitted there should be consulting procedure.

According to the Council Regulation (EC) No 1334/2000 an intangible transfer is considered as export. The regulation also contains catch-all clauses regarding handling in connection with weapons of mass destruction, exports to embargoed countries and exports of parts and components of military items that have been exported without a license.

If a denial has been issued on the same or a similar product within EU or in an export control regime consultation with the denying country is mandatory. If several EU-members are involved in the export the corresponding authorities should consult.

Identification of official public data on IAEA

The identifications made by the Committee on IAEA are accepted.

(p.16) Sweden - IAEA Safeguards agreement (INFCIRC/234) since 1974; replaced by Sweden-Euratom - IAEA Safeguards agreement (INFCIRC/193) (both full scope safeguards) Additional Protocol in force 30 April 2004.

(p.17) Sweden has expressed support to IAEA DG and is working towards implementing the guidelines.

(p.19) Sweden has an active Support Programme to IAEA safeguards. Sweden has ratified the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. Sweden has also ratified the Convention on Nuclear Safety.

Update of information in matrix

Update of information under *OP3 a-b) NW, point 21*:
1. New regulation strengthening Physical Protection measures will enter into force on 1 January, 2007. (SKIFS 2005:1);
2. New regulation regarding nuclear materials control is foreseen to be issued in 2006.

Update of information under *OP3 c-d) BW, CW, NW point 2*:
The Swedish Customs has reinforced its CBRN detection capability by i.e. establishing special CBRN trained and equipped Flexible Anti-smuggling Teams, with the purpose to improve the capability to detect and handle CBRN agents in the cross-border flow of goods and travellers.

Some specific remarks to the information given in the matrix under OP 2:

OP 2 – BIOLOGICAL WEAPONS (BW)

8. Using

If a BW is used with a terrorist intent, this conduct is criminalised through Section 2 and 3 of the Act on Criminal Responsibility for Terrorist Crimes (SFS 2003:148).

If a terrorist intent cannot be established the conduct falls, depending on the circumstances, under a number of provisions in the Swedish Penal Code, i.a. murder, sabotage, devastation, endangering the public or spreading poison or a contagious substance.

1-7. Manufacturing/producing, acquiring etc.

To manufacture/produce, acquire etc. BW are conducts that induce criminal responsibility, if committed with terrorist intent or intent to commit an other criminal act, for preparation to commit terrorist crime respectively for preparation to commit i.a. the other crimes mentioned under 8 above.

Such conduct can also, regardless of whether the conduct constitutes preparation to commit crime, constitute crime according to the specific laws on for example the Military Equipment Act (SFS 1992:1300), which criminalises the manufacturing of military equipment (including BW) without permission from the Government, as well as the Act on Transport of Dangerous Goods (SFS 1982:821) (see above).

9-10. Participating as an accomplice and assisting

According to Chapter 23, Section 4 of the Swedish Penal Code participation and assistance in committing a crime is criminalised. This provision is applicable to all now relevant penal provisions in Swedish law.

11. Financing

A person who collects, provides or receives funds or other assets with the intention that they should be used or in the knowledge that they are to be used in order to commit particularly serious crime, including terrorist crime, is sentenced according to the Act on Criminal Responsibility for the Financing of Particularly Serious Crime in some cases, etc (SFS 2002:444).

In cases where this Act is not applicable financing can constitute complicity to crime.

12. Means of delivery

The above mentioned activities committed in relation to means of delivery can constitute criminal responsibility for preparation to commit crime, according to Chapter 23, Section 2 of the Swedish Penal Code.

Such activities can also, regardless of whether the conduct constitutes preparation to commit crime, constitute crime according to the specific laws on for example *the Military Equipment Act and the Act on Transport of Dangerous Goods (see above).*

13. Involvement of non-State actors

Physical persons are, of course, liable to criminal responsibility. Furthermore, legal persons can, depending on the circumstances, be held liable in accordance with the rules on corporate fines in Chapter 36, Section 7 of the Penal Code.

OP 2 – CHEMICAL WEAPONS (CW)

8. Using

If a CW is used with a terrorist intent, this conduct is criminalised through Section 2 and 3 of the Act on Criminal Responsibility for Terrorist Crimes (SFS 2003:148).

If a terrorist intent cannot be established the conduct falls, depending on the circumstances, under a number of provisions in the Swedish Penal Code, i.a. murder, sabotage, devastation, endangering the public or spreading poison or a contagious substance.

Unlawful handling of chemical weapons, which includes using such a weapon, is also criminalised through the provision in Chapter 22, Section 6 a of the Swedish Penal Code.

1-7. Manufacturing/producing, acquiring etc.

Unlawful handling of chemical weapons in now relevant forms is criminalised through the provision in Chapter 22, Section 6 a of the Swedish Penal Code.

To manufacture/produce, acquire etc. CW are conducts that induce criminal responsibility, if committed with terrorist intent or intent to commit an other criminal act, for preparation to commit terrorist crime respectively for preparation to commit i.a. the other crimes mentioned under 8 above.

Such conduct can also, regardless of whether the conduct constitutes preparation to commit crime, constitute crime according to the specific laws on for example the Military Equipment Act (SFS 1992:1300), which criminalises the manufacturing of military equipment (including CW)

without permission from the Government, as well as the Act on Transport of Dangerous Goods (SFS 1982:821) (see above).

9-10. Participating as an accomplice and assisting

According to Chapter 23, Section 4 of the Swedish Penal Code participation and assistance in committing a crime is criminalised. This provision is applicable to all now relevant penal provisions in Swedish law.

11. Financing

A person who collects, provides or receives funds or other assets with the intention that they should be used or in the knowledge that they are to be used in order to commit particularly serious crime, including terrorist crime, is sentenced according to the Act on Criminal Responsibility for the Financing of Particularly Serious Crime in some cases, etc (SFS 2002:444).

In cases where this Act is not applicable financing can constitute complicity to crime.

12. Means of delivery

The above mentioned activities committed in relation to means of delivery can constitute criminal responsibility for preparation to commit crime, according to Chapter 23, Section 2 of the Swedish Penal Code.

Such activities can also, regardless of whether the conduct constitutes preparation to commit crime, constitute crime according to the specific laws on for example *the Military Equipment Act and the Act on Transport of Dangerous Goods (see above)*.

13. Involvement of non-State actors

Physical persons are, of course, liable to criminal responsibility. Furthermore, legal persons can, depending on the circumstances, be held liable in accordance with the rules on corporate fines in Chapter 36, Section 7 of the Penal Code.

OP 2 – NUCLEAR WEAPONS (NW)

8. Using

If a NW is used with a terrorist intent, this conduct is criminalised through Section 2 and 3 of the Act on Criminal Responsibility for Terrorist Crimes (SFS 2003:148).

If a terrorist intent cannot be established the conduct falls, depending on the circumstances, under a number of provisions in the Swedish Penal Code, i.a. murder, sabotage, devastation, endangering the public or spreading poison or a contagious substance.

The Swedish Act on Nuclear Activities (SFS 1984:3) stipulates that license is required for nuclear activities such as i.a. the use of nuclear material, and using nuclear material without a license is criminalised.

1-7. Manufacturing/producing, acquiring etc.

The Swedish Act on Nuclear Activities (SFS 1984:3) stipulates that license is required for nuclear activities such as i.a. the production, transport and storage of nuclear material, and such handling with nuclear material without a license is criminalised.

To manufacture/produce, acquire etc. NW are conducts that induce criminal responsibility, if committed with terrorist intent or intent to commit an other criminal act, for preparation to commit terrorist crime respectively for preparation to commit i.a. the other crimes mentioned under 8 above.

Such conduct can also, regardless of whether the conduct constitutes preparation to commit crime, constitute crime according to the specific laws on for example the Military Equipment Act (SFS 1992:1300), which criminalises the manufacturing of military equipment (including NW) without permission from the Government, as well as the Act on Transport of Dangerous Goods (SFS 1982:821) (see above).

9-10. Participating as an accomplice and assisting

According to Chapter 23, Section 4 of the Swedish Penal Code participation and assistance in committing a crime is criminalised. This provision is applicable to all now relevant penal provisions in Swedish law.

11. Financing

A person who collects, provides or receives funds or other assets with the intention that they should be used or in the knowledge that they are to be used in order to commit particularly serious crime, including terrorist crime, is sentenced according to the Act on Criminal Responsibility for the Financing of Particularly Serious Crime in some cases, etc (SFS 2002:444).

In cases where this Act is not applicable financing can constitute complicity to crime.

12. Means of delivery

The above mentioned activities committed in relation to means of delivery can constitute criminal responsibility for preparation to commit crime, according to Chapter 23, Section 2 of the Swedish Penal Code.

Such activities can also, regardless of whether the conduct constitutes preparation to commit crime, constitute crime according to the specific laws on for example *the Military Equipment Act and the Act on Transport of Dangerous Goods (see above).*

13. Involvement of non-State actors

Physical persons are, of course, liable to criminal responsibility. Furthermore, legal persons can, depending on the circumstances, be held liable in accordance with the rules on corporate fines in Chapter 36, Section 7 of the Penal Code.